



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/549,328	04/13/2000	Shawn P. McAllister	1400.4100231	7384

25697 7590 03/23/2005

ROSS D. SNYDER & ASSOCIATES, INC.
PO BOX 164075
AUSTIN, TX 78716-4075

EXAMINER

BLAIR, DOUGLAS B

ART UNIT PAPER NUMBER

2142

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/549,328	Applicant(s) MCALLISTER ET AL.	
	Examiner Douglas B Blair	Art Unit 2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/14/2004 has been entered.

Response to Amendment

2. Claims 1-62 are currently pending in this application.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-62 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,201,810 to Massuda et al..

5. As to claim 20, Massuda teaches a congestion notification processor, comprising: a processing module; memory operably coupled to the processing module, wherein the memory stores operating instructions that, when executed by the processing module, cause the processing

Art Unit: 2142

module to perform functions including: detecting control plane congestion at a network element in a signaling network (col. 7, line 55-col. 8, line 15); generating a congestion notification corresponding to the control plane congestion (col. 7, line 55-col. 8, line 15); providing the congestion notification to at least one additional network element in the signaling network, wherein the at least one additional network element utilizes the congestion notification for routing control traffic around the network element at which the control plane congestion has been detected (col. 7, line 55-col. 8, line 15).

6. As to claim 21, Massuda teaches the congestion notification processor of claim 20, wherein the memory stores operating instructions that, when executed, cause the processing module to provide congestion via routing plane within the signaling network (col. 7, line 55-col. 8, line 15).

7. As to claim 22, Massuda teaches the congestion notification processor of claim 21, wherein the memory stores operating instructions that, when executed, cause the processing module to provide the congestion notification via the routing plane such that the congestion notification is provided to neighboring network elements proximal to the network element (col. 7, line 55-col. 8, line 15).

8. As to claim 23, Massuda teaches the congestion notification processor of claim 20, wherein the memory stores operating instructions that, when executed, cause the processing module to provide congestion notification via a signaling plane within the signaling network (col. 7, line 55-col. 8, line 15).

9. As to claim 24, Massuda teaches the congestion notification processor of claim 20, wherein the memory stores operating instructions that, when executed, cause the processing

Art Unit: 2142

module to proceed the congestion notification in response to a received connection setup message generated by a source node in the network, wherein the at least one additional node includes the source node (col. 7, line 55-col. 8, line 15).

10. As to claim 25, Massuda teaches the congestion notification processor of claim 24, wherein the memory stores operating instructions that, when executed cause the processing module to provide the congestion notification via a signaling plane wherein the signaling network, wherein the congestion notification is proceeded to each network element along a path traversed by the connection setup message (col. 7, line 55-col. 8, line 15).

11. As to claim 26, Massuda teaches the congestion notification processor of claim 20, wherein the congestion indication includes at least one congestion parameter from the set of congestion parameters that includes: a congestion type that distinguishes between node congestion and link congestion, a congestion location, and a congestion level (col. 7, line 14-54).

12. As to claim 27, Massuda teaches the congestion notification processor of claim 20, wherein the signaling network is included in at least one of a packet-based communication network and a cell-based communication network (col. 1, lines 6-14).

13. As to claim 28, Massuda teaches the congestion notification processor of claim 27, wherein the signaling network is a source routed control network (col. 7, line 55-col. 8, line 15).

14. As to claim 29, Massuda teaches the congestion notification processor of claim 28, wherein the signaling network is included in an ATM network utilizing a Private Node Network Interface (PNNI) routing and signaling protocol (col. 5, lines 34-42).

15. As to claims 1-10, they feature the same limitations as claims 20-29 and are rejected for the same reasons as claims 20-29.

Art Unit: 2142

16. As to claim 30, Massuda teaches the congestion notification processor of claim 22, wherein utilization of the congestion notification by the at least one additional network element further comprises at least one of: updating routing tables, generating a congestion database, propagating the congestion notification to additional elements in the network, and compiling statistics reflecting network performance (col. 8, lines 18-67).

17. As to claim 31, Massuda teaches the congestion notification processor of claim 22, wherein the congestion notification includes a congestion level and wherein utilization of the congestion notification further comprises reducing control traffic to the network element at which the control plane congestion has been detected, wherein an amount of reduction in control traffic to the network element is based on the congestion level (col. 7, line 55-col. 8, line 15).

18. As to claim 32, Massuda teaches a connection processor, comprising: a processing module; memory operably coupled to the processing module wherein the memory stores operating instructions that, when executed by the processing module, cause the processing module to perform functions including: receiving a request to establish a connection in a communication network, wherein the request includes a destination (col. 7, line 55-col. 8, line 15); determining a first routing path for the connection based on the network parameters, wherein the network parameters include communication network topology information and congestion information corresponding to at least one previously received congestion indication (col. 7, line 55-col. 8, line 15); and sending a first connection setup message along the first routing path (col. 7, line 55-col. 8, line 15).

19. As to claim 33, Massuda teaches the connection processor of claim 32, wherein the memory stores additional instructions that, when executed by the processing module, cause the

Art Unit: 2142

processing module to perform the additional functions of: receiving an indication of control plane congestion at a congestion point along the first routing path (col. 7, line 55-col. 8, line 15); determining a second routing path for the connection using the network parameters and the indication of control plane congestion (col. 7, line 55-col. 8, line 15); and sending a second connection setup message along the second routing path (col. 7, line 55-col. 8, line 15).

20. As to claim 34, Massuda teaches the connection processor of claim 33, wherein the processing module stores the network parameters in a table, and wherein memory stores operating instructions that when executed, cause the processing module to add congestion information included in the indication of control plane congestion to the network parameters stored in the table (col. 8, lines 18-67).

21. As to claim 35, Massuda teaches the connection processor of claim 34, wherein the memory stores operating instructions that, when executed, cause the processing module to remove the congestion information from the table after a predetermined time period (col. 9, lines 6-19).

22. As to claim 36, Massuda teaches the connection processor of claim 35, wherein the congestion information includes a level of congestion, and wherein the predetermined time period is based on the level of congestion (col. 9, lines 6-19).

23. As to claim 37, Massuda teaches the connection processor of claim 33, wherein the memory stores operating instructions that, when executed, cause the processing module to perform an additional function of relaying the indication of control plane congestion to at least one additional node in the communication network (col. 7, line 55-col. 8, line 15).

Art Unit: 2142

24. As to claim 38, Massuda teaches the connection processor of claim 33, wherein the memory stores operating instructions that, when executed, cause the processing module to store congestion information included in the indication of control plane congestion (col. 7, line 55-col. 8, line 15).

25. As to claim 39, Massuda teaches the connection processor of claim 33, wherein the indication of control plane congestion is received by the processing module via a routing plane (col. 7, line 55-col. 8, line 15).

26. As to claim 40, Massuda teaches the connection processor of claim 33, wherein the indication of control plane congestion is received by the processing module via a signaling plane (col. 7, line 55-col. 8, line 15).

27. As to claims 11-19, they have the same limitations as claims 32-40 and are rejected for the same reasons as claims 32-40.

28. As to claims 41 and 42, they feature the same limitations as claims 20 and 30-31 and are rejected for the same reasons as claims 20 and 30-31.

29. As to claim 43, it is considered a broader version of claims 32-33 and is rejected for the same reasons as claims 32-33.

30. Claims 44-62 are rejected for the same reasons as claims 20-40.

Response to Arguments

31. Applicant's arguments with respect to claims 1-62 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 2142

Conclusion

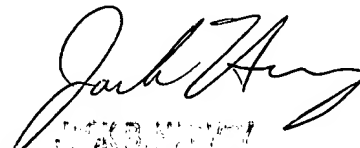
32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B Blair whose telephone number is 571-272-3893. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 571-272-3896. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3800.

Douglas Blair

DBB


JACK HARVEY
SUPERVISOR